

**ARTICLE 16
LEAVES OF ABSENCE**

A. GENERAL PROVISIONS

In accordance with the provisions of this Article, leaves of absence, with or without pay, may be approved by the University.

1. Benefit Eligibility

- a. For purposes of benefit eligibility an, approved leave without pay shall not be considered a break in service. Except as provided in Section D Family and Medical Leave (FML), an eligible employee on approved leave without pay may elect to continue University-sponsored benefit plans (as determined by plan documents and regulations) for the period of the leave by remitting, in accordance with the provisions of the applicable plan(s), the entire premium amount due for the period of approved leave. Regulations of the retirement systems determine the effects of leave without pay on retirement benefits.
- b. Employee benefit plan coverage during an approved FML leave of absence will be continued in accordance with the provisions of Section C.6 Pregnancy Disability and Section D Family and Medical Leave (FML).

2. Except as provided in Section D.1.I, Family and Medical Leave (FML), periods on leave in a without-loss-of-straight-time pay status shall be considered time worked.

3. Requests for Leave

- a. Except as provided in Section D Family and Medical Leave (FML), requests for leaves of absence and extensions thereof, both with and without pay, shall be submitted in writing to the University. Such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request. If the employee learns of the event giving rise to the need for leave more than 30 days in advance, the employee shall provide the University with notice as soon as the employee learns of the need for leave, and, at a minimum, with 30 days advance, written notice. If the employee learns of the event giving rise to the need for leave less than 30 days in advance, the employee shall provide the University with as much advance, written notice as possible, and, at a minimum, with such notice no more than five working days after learning of the event. All requests for leave

shall contain the requested beginning date, end date, and estimated duration of the leave, and any additional information as required.

4. Duration

The duration, terms of the leave and the date of return are determined when the leave is granted, and shall be communicated to the employee, in accordance with the provisions of this Article. Except as provided under Section C Medical Leaves of Absence and Section D Family and Medical Leave (FML), written confirmation shall be provided when the University determines such confirmation is appropriate. Except as provided for elsewhere in this Article or to satisfy the University's obligation to reasonably accommodate a disabled employee, the total aggregate of leaves of absence taken in any combination, granted under this Article, shall not exceed six (6) months.

5. Return to Work

- a. Except as provided in Section C, Medical Leave of Absence, Section D, Family and Medical Leave (FML), and Section K., Military Leave, an employee who has been granted an approved leave with or without pay shall be returned to the same or a similar position in the same department/division when the duration of the leave is six calendar months or less, or 12 months, if extended. If the position held has been abolished or affected by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. The date of return to work is determined when the leave is granted.
- b. An employee who has exhausted his/her original leave entitlement and who has been granted additional leave under another section of this Article, shall be reinstated in accordance with the provisions of the section under which the additional leave was granted.
- c. An employee shall not be granted a leave of absence beyond the ending date of the employee's appointment or predetermined date of separation.

B. PERSONAL LEAVE

1. A non-probationary career employee may be granted a personal leave of absence without pay at the sole, non-grievable discretion of the University. Such leave shall not exceed six calendar months.

2. If an employee's request for a personal leave of absence without pay is denied, such denial may, upon the employee's written request, be reviewed by the Department/Division Head. The results of such a review shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.
3. The University at its sole non-grievable discretion may approve extension of a personal leave of absence without pay for a total leave of not normally more than 12 months.

C. MEDICAL LEAVES OF ABSENCE

Medical Leave of Absence, granted under this section, is the period(s) an eligible employee is granted leave from work for medical reasons in accordance with Section C.2, Eligibility, below. This leave includes the combined use of accrued sick leave and the medical leave of absence without pay in accordance with the provisions of this Article and Article 38 - Sick Leave. In the event that an employee's accumulated sick leave credit is exhausted, an employee may be placed on a Medical Leave of Absence without pay in accordance with the provisions of this section. Medical leaves of absence without pay are provided for leaves due to non-work related illnesses or injuries.

1. Eligibility

- a. An employee may be eligible for a Medical Leave of Absence without pay when he/she:
 - 1) Is medically incapable of performing essential assigned functions of his/her job due to a non-work related illness or injury; and
 - 2) Has furnished evidence of disability satisfactory to the University; or
 - 3) Is eligible for Pregnancy Disability Leave or has exhausted her four (4) month entitlement under Pregnancy Disability leave and is still disabled by pregnancy, childbirth, or related medical conditions; or
 - 4) Has either exhausted his/her 12 workweek entitlement under Section D Family and Medical Leave (FML), or is not otherwise eligible for leave due to the employee's serious health condition under Section D Family and Medical Leave (FML) or Pregnancy Disability Leave under Section C.6.

2. **Notification**

Requests for medical leave shall be in writing as provided in Section A.3, and the employee shall furnish evidence of the medical need for leave that is satisfactory to the University as provided in Section C.4, Documentation and Verification, below. Additionally, an employee must notify the University of a need to extend his/her medical absence from work prior to the anticipated date of return.

3. **Documentation and Verification**

- a. Documentation of the employee's disability (or other medical need for leave) and/or ability to return to work is required and is subject to verification by the University. Such documentation shall include, but is not limited to, a health practitioner's (as defined in Article 38 - Sick Leave, Section D.4.) statement of the anticipated duration of the employee's medical condition, and a statement that the employee is incapable of performing the essential assigned functions of his/her job, or is able to return and perform the essential assigned functions of his/her job.
- b. The University may have an employee claiming disability examined by a physician or physicians of its choosing. The University shall pay the reasonable costs of any such medical examination required by the University.
- c. Verification of medical disability for Pregnancy Disability Leave purposes additionally includes a health care provider's statement regarding the estimated date of delivery and the anticipated date of the employee's inability to perform the essential assigned functions of her job.

4. **Duration**

Medical leaves of absence are granted for the period of verified disability (or other medical need for leave) and are not granted for non-medical purposes. When the use of accrued sick leave and a medical leave of absence without pay are combined, a medical leave of absence from work for non-work related disability purposes may be granted by the University for a total period of verified disability not to exceed six months. If further leave is required, see Section C.7.

5. **Pregnancy Disability Leave**

- a. An employee may take Pregnancy Disability Leave when disabled by pregnancy, childbirth, or related medical conditions or for purposes of

prenatal care. During the period of verified pregnancy-related disability, a female employee is entitled to and the University shall grant a medical leave of absence of up to four months. If the pregnancy-related/childbearing medical disability continues beyond four months, a medical leave of absence may be granted in accordance with Section C.5, above. Additionally, the employee may be eligible for a parental leave to bond with a newly born child in accordance with Section D, Family and Medical Leave (FML). When parental leave is granted under Section D, Family and Medical Leave (FML), the total of parental leave and pregnancy-related/childbearing disability leave, when taken in conjunction, shall not exceed seven months in the leave year.

- b. If an employee on approved Pregnancy Disability Leave is also eligible for leave under Section D Family and Medical Leave (FML), the Pregnancy Disability shall run concurrently with the employee's entitlement to FML Leave under the federal Family and Medical Leave Act (FMLA), for up to 12 workweeks of such leave shall run concurrently. However, it shall not be counted against the employee's entitlement to FML Leave under the California Family Rights Act (CFRA). Upon termination of a Pregnancy Disability Leave that runs concurrently with federal Family and Medical Leave, an employee shall also be entitled to up to 12 workweeks of FML Leave for any CFRA-covered reason provided the employee has not exhausted her CFRA leave entitlement for that leave year.
- c. When medically necessary, and supported by medical certification, the University shall grant an employee Pregnancy Disability Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee's entitlement of four (4) months.
- d. As an alternative to, or in addition to Pregnancy Disability Leave, the University shall temporarily transfer a pregnant employee to a less strenuous or hazardous position upon the request of the employee and with the advice of the employee's health care provider, if the transfer can be reasonably accommodated. For the purpose of this section, a temporary transfer includes a temporary modification of the employee's own position to make it less strenuous or hazardous. A temporary transfer under this section shall not be counted toward an employee's entitlement of up to four 4 months of Pregnancy Disability Leave, unless the employee is also on a reduced work schedule or an intermittent leave schedule.

- e. Pregnancy Disability Leave may consist of leave without pay; however, an employee shall be required to use accrued sick leave in accordance with the University's Disability Plan. If accrued sick leave is exhausted, an eligible employee may elect to use accrued compensatory time off (in accordance with Article 12 – Hours of Work) or accrued vacation prior to taking medical leave without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay.
- f. An employee on Pregnancy Disability Leave she shall be entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for the period of her disability up to four months.

6. Extensions of Leaves

- a. In the event that an employee's verified non-work-related disability (or other medical need for leave) exceeds six months, a personal leave of absence may be granted in accordance with the provisions of Section B, of this Article. However, the aggregate of leave for medical reasons normally shall not exceed 12 consecutive months. The granting of a personal leave of absence in order to extend an employee's total absence from work for medical purposes is at the sole discretion of the University and without recourse to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement. An employee on such personal leave of absence shall submit medical verification that he/she has been medically released to perform the essential assigned functions of his/her job prior to his/her return in accordance with Section C.4.a of this Article.
- b. A request to extend a leave for medical reasons may not be granted when medical separation is appropriate.

7. Return from a Medical Leave of Absence

- a. An employee who has been granted a Pregnancy Disability Leave shall be returned to the same job provided the employee returns to work immediately upon termination of the Pregnancy Disability Leave and provided such return is within four months of the date on which the Pregnancy Disability Leave commenced. If the same job is not available, a similar job will be offered. If a similar position is not available, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. A female employee who is also granted Parental Leave under Section D Family and Medical Leave (FML) shall be returned

to work in accordance with Section D.3.g, of this Article. An employee who was granted a medical leave of absence beyond four months in accordance with Section C.5.e, shall be returned to the same or a similar position except as provided in Section C.7, of this Article.

- b. An employee who has been granted an approved medical absence for medical reasons other than pregnancy-related/childbearing disability shall be returned to the same or a similar position when the employee has been medically released to perform the essential assigned functions of his/her job, except as provided in Section C.7 of this Article. If the position held has been abolished or affected by layoff during the absence, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff.

D. FAMILY AND MEDICAL LEAVE (FML)

An employee who is eligible for Family and Medical Leave (FML) and has not exhausted his or her FML Leave entitlement for the leave year, as discussed below, may take FML Leave for any of the following six reasons, as described in greater detail in this Section below: (a) due to the employee's own serious health condition, (b) to care for a family member with a serious health condition, (c) as Pregnancy Disability Leave, (d) as Parental Leave, (e) as Military Caregiver Leave, or (f) as Qualifying Exigency Leave.

1. Definitions

- a. The leave year is the calendar year for all types of FML except Military Caregiver Leave. For Military Caregiver Leave, the leave year is the single 12-month leave period that begins on the first day of the leave.
- b. The qualifying year is the 12-month period immediately preceding the commencement of the employee's leave and in which the employee must have worked 1,250 hours (Section D.2).
- c. **Parental Leave** is leave to bond with the employee's newborn or a child who has been placed with the employee for adoption or foster care or to attend to matters related to the birth, adoption or placement of the child. Parental Leave shall be initiated and concluded within one year of the birth or placement of the child with the employee and shall be taken in accordance with applicable federal and state regulations. The total of Pregnancy Disability Leave (C.6) and Parental Leave (D.3.e), when taken in conjunction, shall not exceed seven months in the leave year pursuant to Section C.6.a of this Article.

- d. **FML Leave due to the employee's own serious health condition** is leave granted when the employee's own serious health condition renders the employee unable to perform any one of the essential assigned functions of the employee's position. An employee disabled because of pregnancy-related conditions is covered under Section C.6.
- e. **FML Leave to care for a family member with a serious health condition** is leave to care for the employee's child, parent, spouse, or same- or opposite-sex domestic partner who has a serious health condition.
- f. **Child** means a biological child, adopted child, foster child, stepchild, legal ward, or child for whom the employee stands in *loco parentis*; provided that the child is either under 18 years of age or incapable of self-care because of a mental or physical disability.
- g. **Parent** means a biological parent, foster parent, adoptive parent, stepparent, legal guardian or individual who stood in *loco parentis* to the employee when the employee was a child. "Parent" does not include the employee's grandparents or mother-in-law or father-in-law unless they stood in *loco parentis* to the employee when the employee was a child.
- h. **Spouse** means a partner in marriage.
- i. **An employee's own serious health condition** means an illness, injury, impairment, physical or mental condition that makes the employee unable to perform any one of the essential assigned functions of the employee's position and involves one of the following:
 - 1) Inpatient care in a hospital, hospice, or residential medical care facility, or,
 - 2) Continuing treatment by a health care provider for:
 - a) A period of incapacity of more than three (3) consecutive calendar days, or
 - b) Any period of incapacity or treatment due to a chronic serious health condition, or
 - c) Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.

3) An employee's disability or work-related injury or illness may constitute a serious health condition.

j. **A serious health condition of a family member** means an illness, injury, impairment, physical or mental condition, as described in D.1.i above, of the employee's child, parent, spouse, or same- or opposite-sex domestic partner which requires the participation of the employee to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity.

k. **Health care provider** means doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to treatment of the spine to correct a subluxation as demonstrated in x-ray to exist), physician assistant, nurse practitioner, nurse-midwife, or clinical social worker performing within the scope of their practice as defined under State law; Christian Science practitioner; or any health care provider that the employee's health plan carrier recognizes for purposes of payment.

l. **1,250 Hours of Actual Service** means time actually spent at work and does not include any paid time off, such as vacation, compensatory time, or sick leave, paid holidays not worked, or time spent in unrestricted on-call status. However, for employees granted military leave, all hours that would have been worked had the employee not been ordered to military duty shall be used to calculate the 1,250 actual hours of work requirement).

2. Eligibility Criteria

Employees who have at least 12 cumulative months of University service (all prior University service, including service with the Department of Energy Laboratories, shall be used to calculate the twelve-month service requirement), and have worked at least 1,250 hours of Actual Service during the 12-month period immediately preceding the commencement of the leave are eligible for and shall be granted up to a total of 12 workweeks of FML in the leave year, except as otherwise provided in this Article. If the employee is taking FML as Military Caregiver Leave, the employee shall be eligible for up to 26 workweeks of leave in a single 12-month leave period. FML includes paid and unpaid absences, including use of an employee's accrued sick leave, vacation, and leave of absence without pay. Aggregate time used for FML shall not exceed 12 workweeks in the leave year unless the employee is taking FML Leave as Military Caregiver Leave. An employee on approved leave may elect to use accrued compensatory time off (in accordance with Article 12 - Hours of Work).

3. **General Provisions**

a. **Time Periods**

- 1) For FML purposes only, 12 workweeks means 12 workweeks in the calendar year (or 26 workweeks in the single 12-month leave period if the employee is taking FML as Military Caregiver Leave) for full-time employees. For employees who work less than full time or who work full time but on alternative work schedules, the number of working days shall be adjusted on a pro-rata basis.
- 2) When supported by a complete and sufficient certification, the University shall grant FML for any of the six reasons identified in the first paragraph of Section D except Parental Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. For Parental Leave, see Section D.4.d. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee's entitlement of 12 workweeks in the leave year.
- 3) When the employee requests FML on an intermittent leave or leave on a reduced leave schedule for planned medical treatment, the University may, at its discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position. Such transfer shall be to a position that has equivalent pay and terms and conditions of employment, but does not need to have equivalent duties. Should the employee object to the temporary transfer, the employee may submit a written request for review to the Department/Division Head. Such temporary transfer shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure.

b. **Notice**

- 1) If the employee learns of the event giving rise to the need for leave more than 30 days in advance, the employee shall provide the University with notice as soon as the employee learns of the need for leave, and, at a minimum, 30 days prior to the commencement of the leave, if practicable.
- 2) If the need for leave is foreseeable due to the planned medical treatment of the employee or his/her family member, the

employee shall make reasonable efforts to schedule the leave so as to avoid disruption to the University's operations.

- 3) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of a foreseeable leave, the employee shall provide the University with as much advance notice as is practicable, and, at a minimum, with such notice within five working days after learning of the event.
- 4) An employee who fails to give 30 days' notice for a foreseeable leave with no reasonable basis for the delay may have his/her FML leave delayed until 30 days after the date on which the employee provides notice.
- 5) The University shall determine whether the employee is eligible and qualifies for FML and shall notify the employee, in writing, when the leave is designated or provisionally designated as FML leave. The duration and terms of the leave and the date of return are determined when the leave is granted. Extensions, if any, up to an aggregate of 12 workweeks in the leave year (or 26 workweeks in a single 12-month leave period if FML is being taken as Military Caregiver Leave) may be granted in accordance with this Section.

c. **Certification**

- 1) **For the Employee's Own Serious Health Condition**
 - a) When leave is requested for the employee's own serious health condition, the University may, at its discretion, require that an employee's request for FML be supported by a written certification issued to the University by the employee's health care provider. Such request to the employee shall be in writing. The certification may be provided on a form given to the employee by the University and shall, regardless of the format, in addition to certifying that the employee has a serious health condition, include the following:
 - b) A statement as to whether the employee is unable to perform any one of the essential assigned functions of the position, and
 - c) The date, if known, on which the serious health condition commenced, the probable duration of the condition and the probable date of return, and

- d) Whether it will be medically necessary for the employee to take leave intermittently or to work on a reduced leave schedule, and if so, the probable duration the need for such schedule, and,
- e) If the condition will result in periodic episodes of incapacity, an estimate of the duration and frequency of episodes of incapacity.

2) **If Leave is Requested for the Employee's Family Member**

When a leave of absence is requested for the serious health condition of the employee's family member, the University shall require that an employee's request for leave be supported by written certification issued by the family member's health care provider. When certification is required by the University, such requirement shall be submitted to the employee in writing. Certification may be provided by the employee on a form given to the employee by the University and shall, regardless of the format, in addition to certifying that the employee's family member has a serious health condition, include:

- a) A statement that the serious health condition warrants the participation of the employee to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity, and
- b) Whether the employee's family member will need supervision or care over a continuous period of time, intermittently, or on a reduced schedule basis; the leave schedule the employee will need in order to provide that supervision or care; and the probable duration of that need for leave.
- c) In addition, the employee will be required to certify either on the same form or separately what care he/she will provide the family member and the estimated duration of the period of care.

3) Should there be any questions regarding the validity of the employee's medical certification for his/her own serious health condition, the University has the right to, require the employee to obtain a second medical opinion from a second health care provider jointly approved by the University and the employee. Should the second medical opinion differ from that of the

employee's own health care provider, the University may require a third medical opinion from a third health care provider jointly approved by the University and the employee. The University shall bear the cost of the second and third opinions and the third opinion shall be final.

- 4) If additional leave is requested upon expiration of the leave granted, or should the circumstances of the leave change, the University has the right to require the employee to obtain recertification. Also, when the certification states that the serious health condition of the employee or the employee's family member will last indefinitely, the University has the right to require the employee to provide a new certification, but not more frequently than every 30 days. Such requests for subsequent certification shall be in writing.
- 5) If certification or recertification is required, the employee shall return the certification within 15 calendar days of the University's request, where practicable. Failure to provide certification for a foreseeable leave within the requested time may result in the denial of the leave until the required certification is received. Failure to provide certification for an unforeseeable leave within the requested time period, may result in the denial of continuation of the leave until the required certification is provided. If the employee fails to provide a completed certification, the employee shall be given 15 calendar days to perfect the certification. Failure to perfect an incomplete certification may result in the denial of the leave or the denial of continuation of the leave. If the employee fails to provide a certification/recertification or a completed certification/recertification and the leave has not begun, the request for FML may be denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FML leave.
- 6) An employee who has been granted an FML leave for a reason other than Pregnancy Disability shall be returned to the same or an equivalent position when the employee returns. For employees returning after Pregnancy Disability Leave, see Section C.8.a. If the employee was taking FML due to his or her own serious health condition, the employee must be medically released to perform the essential assigned functions of his/her job before returning. Failure to provide a medical release to return to work may result in the denial of reinstatement until after the employee submits the required medical release certification.

d. **Use of Accrued Paid Leave**

- 1) An employee on an approved FML leave to care for a family member with a serious health condition, may, elect to use accrued compensatory time off (in accordance with Article 12 – Hours of Work) or accrued vacation time before taking a FMLA leave without pay. If the employee's vacation leave accrual is at maximum the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay. Up to thirty (30) days of accrued sick leave per year may be substituted for FML taken to care for a family member with a serious health condition under this section pursuant to Article 38 - Sick Leave, Section B.3.b.
- 2) An employee on an approved FML leave for Parental Leave may elect to use accrued compensatory time off (in accordance with Article 12 – Hours of Work) or accrued vacation time before taking an FML leave without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay.
- 3) An employee on an approved FML leave for his/her own serious health condition, shall use accrued sick leave in accordance with the University's disability plan or as provided under Article 46 - Work Incurred Injury or Illness, if applicable. Employees not eligible for University disability benefits and who are not on leave due to a work-incurred illness or injury shall use all accrued sick leave prior to taking medical leave without pay. An employee may also use accrued compensatory time off (in accordance with Article 12 – Hours of Work) or accrued vacation before taking an FML leave without pay. However, if the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay.
- 4) For an employee's use of accrued leave while on Pregnancy Disability Leave, see Section C.6.e.
- 5) For an employee's use of accrued paid leave while on Military Caregiver Leave, see Section D.5.e.
- 6) For an employee's use of accrued paid leave while on Qualifying Exigency Leave, see Section D.6.e.

e. **Continuation of Health Benefits**

An employee on an approved FML Leave shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for a period of up to 12 workweeks in the leave year for all types of FML other than those for Military Caregiver Leave or Pregnancy Disability Leave. If an employee is taking FML for Military Caregiver Leave, the employee is entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for a period of up to 26 workweeks in the leave year. If an employee is taking FML for Pregnancy Disability, she shall be entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for the period of disability up to four months. However, an employee who exhausts her entitlement to health plan coverage while on an approved Pregnancy Disability Leave shall not be entitled to an additional 12 workweeks of health plan coverage during any FML leave she subsequently takes for Parental Leave or any other CFRA-covered reason provided the employee has not exhausted her CFRA leave entitlement for that leave year. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

f. **Review of Denials or Deferrals of FML Leave Requests**

If an employee's request for FML Leave is denied, deferred or otherwise provided for short of the employee's initial request, such University action may, upon the employee's written request, be reviewed by the Department/Division Head. Neither the University's action in granting or not granting an FML Leave nor the results of such review shall be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

g. **Return to Work**

An employee granted FML Leave for any reason other than Pregnancy Disability shall be returned to the same or an equivalent position upon return from the leave. For an employee's return to work rights after Pregnancy Disability Leave, see Section C.8.a above. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations which would have been afforded had the employee been on pay status when the position was abolished or affected by layoff. An employee granted an FML Leave is not entitled to reinstatement to his/her position if the employee's appointment ending

date or predetermined date of separation occurs before the scheduled return date.

4. **Parental Leave**

Parental Leave is a form of FML an employee may take to bond with the employee's newborn or a child placed with the employee for adoption or foster care or to attend to matters related to the birth, adoption or placement of the child. This type of leave shall be initiated and concluded within one year of the birth or the placement of the child with the employee. The University will grant a Parental Leave subject to the limitations described below.

a. **Eligibility Criteria**

An employee taking Parental Leave must meet the eligibility requirements for FML set forth in Section D.2 except when the employee is taking Parental Leave immediately following an FML leave taken as Pregnancy Disability Leave; in those circumstances, an employee who was eligible for FML under CFRA at the beginning of her Pregnancy Disability Leave shall be granted a Parental Leave for up to twelve workweeks after her Pregnancy Disability Leave, provided that she has not exhausted her FML entitlement under CFRA for that leave year.

b. **Requests for Parental Leave**

The employee shall request Parental Leave sufficiently in advance, if possible, of the expected birth date of the child or placement of a child for adoption or foster care to allow the University to plan for the absence of the employee. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with an FML leave taken for pregnancy/childbearing disability, shall be set at the time such Pregnancy Disability Leave commences. Parental Leave, when taken for adoption or foster care, could commence prior to the date of the child's placement with the employee.

c. **Leave Entitlement**

When Parental Leave is combined with a Pregnancy Disability Leave, the total FML Leave shall not exceed seven months in the leave year.

d. **Length of Parental Leaves**

The University shall grant a Parental Leave of less than two weeks' duration on any two occasions during the leave year. The University,

at its discretion, may request that any additional leaves for Parental Leave requested during this same time period be for a minimum duration of two weeks.

5. **Military Caregiver Leave**

Military Caregiver Leave is a type of FML that an eligible employee may take to care for a family member who is a “covered servicemember” undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty on active duty in the Armed Forces, or who is otherwise in outpatient status or on the temporary disability retired list. The general FML provisions set forth in Sections D1 through D.3 above apply to Military Caregiver Leave except to the extent that provisions more specific to Military Caregiver Leave are set forth in this Section D.5.

a. **Definitions applicable to Military Caregiver Leave**

- 1) **Covered servicemember** means (i) a current member of the regular Armed Forces (including a member of the Reserves; a member of the National Guard; or a member of the Armed Forces, the National Guard, or the Reserves who is on the temporary disability retired list) who has a serious injury or illness incurred or aggravated in the line of active duty for which he or she is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is on the temporary disability retired list; or (ii) a veteran of the Armed Forces (including the National Guard or the Reserves), provided that the veteran is undergoing medical treatment, recuperation, or therapy for a serious injury or illness that was incurred or aggravated in the line of active duty, and that treatment, recuperation or therapy is occurring within 5 years of the date the veteran left the Armed Forces.
- 2) **Outpatient status** means the status of a servicemember assigned to (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- 3) **Serious injury or illness** means an injury or illness (i) incurred or aggravated by the covered servicemember in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating or (ii) of a veteran of the Armed Forces (including the National Guard and Reserves),

provided that the veteran's injury or illness was incurred or aggravated in the line of active duty, and that the medical treatment, recuperation, or therapy is occurring within 5 years of the date the veteran left the Armed Forces.

- 4) **Parent of a covered servicemember** means a covered servicemember's biological parent, adopted parent, foster parent, or any other individual who stood in loco parentis to the covered servicemember when the covered servicemember was a child. The term does not include parents "in law."
- 5) **Son or daughter of a covered servicemember** means a covered servicemember's biological child, adopted child, foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- 6) **Next of kin** means either (a) the nearest blood relative of the covered servicemember (other than the covered servicemember's spouse, domestic partner, parent, son or daughter) or (b) the person who the covered servicemember has designated in writing as his/her nearest blood relative for purposes of Military Caregiver Leave.
- 7) **Single 12-month leave period** means the period beginning on the first day the employee takes leave to care for the covered servicemember and ending 12 months after that date. (This leave period differs from the calendar year definition of the leave year used for determining eligibility for other types of FML.)

b. **Eligibility Criteria**

In addition to meeting the eligibility requirements for FML set forth in Section D.2, an employee taking Military Caregiver Leave must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered servicemember.

c. **Leave Entitlement**

An eligible employee is entitled to up to 26 workweeks of Military Caregiver Leave during a single 12-month leave period. Leave is applied on a per-covered servicemember, per-injury basis. Eligible employees may take more than one period of 26 workweeks of leave if the leave is to care for a different covered

servicemember or to care for the same servicemember with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any “single 12-month period.”

If an eligible employee does not use all of his or her 26 workweeks of leave entitlement to care for a covered servicemember during this single 12-month leave period, the remaining part of the 26 workweek entitlement to care for the covered servicemember for that serious injury or illness is forfeited.

As with other types of FML, this leave may also be taken on an intermittent or reduced schedule basis. If the need for intermittent or reduced schedule leave is foreseeable based on the planned medical treatment of the covered servicemember, the employee may be required to transfer temporarily, during the period that the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates a recurring periods of leave than does the employee’s regular position.

d. Documentation and Certification

Employees may be required to provide a certification completed by an authorized health care provider of the covered servicemember that provides information necessary to establish entitlement to Military Caregiver Leave. In addition, employees may be required to provide certain information (or have the covered servicemember provide that information) including information establishing that the servicemember is a covered servicemember for purposes of Military Caregiver Leave, his or her relationship with the employee, and an estimate of the leave needed to provide the care. The employee may also be required to provide confirmation of a covered family relationship between the employee and the covered servicemember.

e. Use of Accrued Paid Leave

An employee on an approved FML leave for Military Caregiver Leave may elect to use accrued compensatory time off (in accordance with Article 12 – Hours of Work or accrued vacation time before taking an FML leave without pay. However, if the employee's vacation leave accrual is at maximum the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay. Up to thirty (30) days of accrued sick leave per year may be substituted for FML taken to care for a family member who is a covered service

member with a serious injury or illness pursuant to Article 38 - Sick Leave, Section B.3.b.

6. **Qualifying Exigency Leave**

Qualifying Exigency Leave is a type of FML that an eligible employee may take if the employee's spouse, domestic partner, son, daughter or parent is a "covered military member" and the employee needs to attend to any "qualifying exigency" while the covered military member is on active military duty or has been notified of an impending call or order to active military duty in the Armed Forces. The general FML provisions set forth in Sections D.1 through D.3 above apply to Qualifying Exigency Leave except to the extent that provisions more specific to Qualifying Exigency Leave are set forth in this Section D.6.

a. **Definitions applicable to Qualifying Exigency Leave**

- 1) **Covered military member** means a military member who is on "active duty or call to active duty status" (as defined below) and is either (i) a member of a regular component of the Armed Forces who is deployed to or returning from a foreign country due to service in the Armed Forces, (ii) a member of the reserve components (Army National Guard of the United States, Army Reserve, Navy Reserve, Air National Guard of the United States, Air Force Reserve, or Coast Guard Reserve), or (iii) a retired member of the regular Armed Forces or the Reserves.
- 2) **Parent of a covered military member** means a covered military member's biological parent, adopted parent, foster parent, or any other individual who stood in loco parentis to the covered military member when the covered military member was a child. The term does not include parents "in law."
- 3) **Son or daughter of a covered military member** means a covered military member's biological child, adopted child, foster child, stepchild, legal ward, or a child for whom the covered military member stood in loco parentis, and who is of any age.
- 4) **Active duty or call to active duty status** means duty under a call or order to active duty (or notification of an impending call or order to active duty) in the Armed Forces.

- 5) **Qualifying exigency** is defined as any one of the following, provided that the activity relates to the covered military member's active duty or call to active duty status:
- a) Short notice deployment to address issues that arise due to the covered military member being notified of an impending call to active duty seven or fewer calendar days prior to the date of deployment
 - b) Military events and activities, including official ceremonies
 - c) Childcare and school activities for a child of the covered military member who is either under age 18 or incapable of self-care
 - d) Financial and legal arrangements to address the covered military member's absence or to act as the covered military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status and for the 90 days after the termination of the covered military member's active duty status
 - e) Counseling (provided by someone other than a health care provider) for the employee, for the covered military member, or for the child of the covered military member who is either under age 18 or incapable of self-care
 - f) Rest and recuperation (up to 5 days of leave for each instance) to spend time with the covered military member who is on short-term, temporary rest and recuperation leave during deployment
 - g) Post-deployment activities to attend ceremonies sponsored by the military for a period of 90 days following termination of the covered military member's active duty and to address issues that arise from the death of the covered military member while on active duty status
 - h) Additional activities related to the covered military member's active duty or call to active duty status when the employer and employee agree that such

activity qualifies as an exigency and agree to both the timing and duration of the leave.

b. Eligibility

In addition to meeting the eligibility requirements for FML set forth in Section D.2, an employee must be the spouse, domestic partner, son, daughter, or parent of a covered military member to be eligible for Qualifying Exigency Leave.

c. Leave Entitlement

Eligible employees are entitled to up to 12 workweeks of Qualifying Exigency leave during a calendar year.

As with other types of FML, Qualifying Exigency Leave also may be taken on an intermittent or reduced schedule basis.

d. Documentation and Certification

Employees may be required to provide a copy of the covered military member's active duty orders. Employees may also be required to provide certification of: (1) the reasons for requesting Qualified Exigency Leave, (2) the beginning and end dates of the qualifying exigency, and (3) other relevant information.

e. Use of Accrued Paid Leave

An employee on an approved FML leave for Qualifying Exigency Leave may elect to use accrued compensatory time off (in accordance with Article 12 – Hours of Work) or accrued vacation time before taking leave without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay.

E. JURY DUTY/GRAND JURY DUTY

Any full-time or part-time employee on any shift or work schedule shall be granted leave with pay for actual time spent on required jury service and required grand jury service and in related travel, not to exceed the number of hours in the employee's normal work day and the employee's normal workweek. Upon request, the University will endeavor to accommodate an employee's summons to jury duty with a change in shift assignment.

F. VOTING

An employee shall be granted leave with pay, up to a maximum of two hours, for voting in a statewide primary or general election if the employee is scheduled to work eight hours or more on that day and does not have time to vote outside of working hours.

G. BLOOD DONATIONS

An employee may be granted leave with pay, up to a maximum of two hours, for donating blood during regularly scheduled hours of work.

H. ADMINISTRATIVE OR LEGAL PROCEEDINGS

1. When an employee is attending administrative or legal proceedings on behalf of the University or is subpoenaed by the University to appear as a witness on its behalf in an administrative or legal proceeding, leave without loss of straight-time pay will be granted for actual time spent in the proceedings and in related travel not to exceed the number of hours in the employee's normal work day and workweek.
2. Leave with pay shall not be granted when an employee is the plaintiff or defendant in a proceeding, is called or subpoenaed as a paid expert witness not on behalf of the University, or is called or subpoenaed because of duties for another employer.
3. When served with a subpoena which compels the employee's appearance as a witness, in the prosecution of a person for an offense which the employee, by virtue of being on University premises during scheduled work hours, witnessed, the employee shall be granted leave without loss of straight-time pay for actual time spent in the proceedings and in related travel time not to exceed the employee's normal work day and workweek.
4. The granting of leave without loss of straight-time pay status for other employment-related situations where an employee has been subpoenaed shall be at the sole non-grievable, non-arbitrable discretion of the University.

I. EMERGENCIES

In the event of natural or man-made emergencies, an employee may be granted leave with straight-time pay during regularly scheduled hours of work for the period of time authorized by the University. The granting of such leave and the period of time shall be at the sole, non-grievable discretion of the University.

J. UNIVERSITY FUNCTIONS

At the sole, non-grievable discretion of the University and on a campus/medical center/Laboratory basis and within a campus/medical center/Laboratory basis, an employee may be granted leave during regularly-scheduled hours of work to attend Commencement exercises, Charter Day exercises and other University meetings or functions as designated by the University. Such leave, when granted, shall be without loss of straight-time pay.

K. TEMPORARY MILITARY LEAVE FOR ACTIVE-DUTY & INACTIVE TRAINING

1. Temporary military leave for active-duty training shall be granted to any employee who as a member of a reserve component of the Armed Forces of the United States (the federally recognized National Guard, the federally recognized Air National Guard, the Officer's Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, and the Public Health Reserve when serving with the Armed Forces) is ordered to full-time active military duty for training for a period not to exceed 180 calendar days, including time spent traveling to and from such duty.

2. Eligibility For Pay

An employee granted temporary military leave for active duty training or reserve training leave for inactive duty, is entitled to receive regular University pay for the first 30 calendar days, but not to exceed the actual period of active duty for training, provided:

- a. The employee has at least 12 months of continuous University service immediately prior to granting of the leave (any prior full-time military service shall be included in calculating this University service requirement); and
- b. Such payment, in addition to University payment for reserve training, extended military leave and for military leave for physical examinations, does not exceed thirty (30) calendar days' pay in any one fiscal year.

3. The University May Require Verification Of An Employee's Military Orders

Employees who report for weekend military duty and who received orders covering the entire year's schedule may be required to provide the full year schedule when issued.

4. **Part –Time Employee**

For purposes of Section K.2, an eligible part-time employee shall receive pay in proportion to the average percent of full-time worked during the three completed monthly pay periods immediately preceding the leave.

5. **Ineligible Employee**

An employee not eligible for military leave pay under Section K.2 may have such absence charged to accrued vacation, accrued compensatory time off, or the military leave may be without pay.

6. **Benefits**

- a. An employee on leave for military reserve training who is not on pay status shall receive length of service credit, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal laws. Such employee may receive retirement benefits and service credit only in accord with the provisions of the applicable retirement system; may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations; and may receive vacation and sick leave accruals and holiday pay only in accordance with those articles of this Agreement.
- b. If on pay status, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal Laws, the employee shall receive regular benefits.

7. **Reserve Training for Inactive Duty**

Reserve training leave for inactive duty shall be granted to any employee who, as a member of a reserve component of the United States Armed Forces, must perform inactive duty such as weekly or monthly meetings or weekend drills.

L. EXTENDED MILITARY LEAVE

1. Extended military leave shall be granted to an employee who enlists or is ordered into active duty in the United States Armed Forces or a reserve component or who is ordered into active Federal military duty as a member of the National Guard or Naval Militia. Such leave shall be granted for active-duty service of any length or for active-duty training in excess of 180 days.

2. **Period of Leave**

An employee shall be granted extended military leave for the initial period of enlistment, service, or tour of duty for a period generally not to exceed five years. In addition to the initial period of the leave and any extensions thereof in accordance with Section L, leave shall be granted for a period up to six months from the date of release from duty.

3. **Eligibility for Pay**

An employee granted extended military leave is entitled to receive regular University pay for the first thirty (30) calendar days of leave provided:

- a. The employee has at least twelve (12) months of continuous University service immediately prior to the leave (any prior full-time military service shall be included in calculating this University service requirement);
- b. Such payment, in addition to University payment for military reserve training leave and for military leave for physical examinations, does not exceed thirty (30) calendar days' pay in any one fiscal year.

4. The University may require verification of an employee's military orders.

5. **Benefits**

An employee granted extended military leave shall at the time the leave commences receive a lump-sum payment for earned salary, accrued vacation, and accrued overtime or compensatory time. Upon written request, an employee may elect to retain accrued vacation on the records for a period not to exceed 180 days. At the end of the 180-day period, vacation credits retained on the records shall be paid out at the pay rate in effect at the time of payment, taking into account any salary increases that may have occurred during the 180 day period.

6. Sick leave credit shall be retained on the records.

7. Retirement benefits and service credit shall be in accord with the provisions of the applicable retirement system.

8. An employee may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations.

9. An employee shall receive length-of-service benefits related to employment that would have been granted had the employee not been absent, except that

the employee shall not receive credit toward completion of a probationary period (See Section L. 10 of this Article). Vacation and sick leave accruals and holiday pay shall be granted only in accordance with those articles of this Agreement.

10. Probationary Employee

An employee who was serving a probationary period at the time extended military leave became effective shall be required to complete the probationary period upon reinstatement.

- a. If the probationary employee served in active military service for a period of thirty (30) to one-hundred and eighty (180) days, he/she shall not be separated from employment by management action except for cause for six (6) months from the date of reinstatement.
- b. If the probationary employee served in active military service for a period in excess of one hundred eighty (180) days, he/she shall not be separated from employment by management except for cause for one (1) year from the date of reinstatement.

11. Reinstatement

- a. Following release from active duty, an employee granted extended military leave shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.
- b. Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee's position during the military leave.

M. EMERGENCY NATIONAL GUARD LEAVE

1. Leave shall be granted to an employee who as a member of the National Guard is called to active duty by proclamation of the Governor during a state of emergency. An employee who as a member of the National Guard is called to active federal military duty at the request of the President of the United States is not eligible for emergency National Guard leave, but shall be granted extended military leave as set forth in Section K.
2. **Eligibility for Pay**

An employee granted military leave for emergency National Guard duty is entitled to receive regular University pay for a period not to exceed 30 calendar days per emergency. An employee is eligible for pay regardless of

the length of University service, and such pay is in addition to any University payment for military reserve training leave, extended military leave, and military leave for physical examinations.

3. Benefits

An employee on military leave with pay for emergency National Guard duty shall receive all benefits related to employment which are granted when an employee is on pay status. If not on pay status, the employee shall receive length of service credit, provided that the employee returns to University service immediately after the emergency is over. Such employee may receive retirement benefits and service credit only in accord with the provisions of the applicable retirement system; may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations; and may receive vacation and sick leave accruals and holiday pay only in accordance with those articles of this Agreement.

4. Reinstatement

- a. Following release from active duty, an employee granted leave for emergency National Guard duty shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.
- b. Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee's position granted during military leave.

N. PHYSICAL EXAMINATION

1. Military leave with pay shall be granted to an employee in accordance with Sections K.2.b and L.3.b, regardless of length of service, when the employee is required to take a pre-induction or pre-enlistment physical examination to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency. The University may require verification of an employee's military orders to report for a physical examination.
2. The University may grant leave without pay for further physical examinations required for military service or the employee may charge such time off to accrued sick leave, accrued vacation or accrued compensatory time off.

O. DEFENSE WORK

Military leave without pay may be granted to an employee who is called or volunteers to serve in scientific research and development under the auspices of the federal government during a war or comparable period of national emergency. An employee granted such leave shall be eligible for the benefits set forth in Sections K.5 - 11 of this Article and shall have the right to return to University service within six (6) months following termination of such defense work or the cessation of the war or period of national emergency, whichever occurs first. However, such an employee shall not be eligible for 30 calendar days' pay for military leave.

- P.** An employee who fails to return to work from a leave of absence on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/her job, in accordance with Article 34 - Resignation, if such failure to return exceeds five consecutive working days of the anticipated return date.

Q. MILITARY SPOUSE/DOMESTIC PARTNER LEAVE

An employee who is a spouse or domestic partner of a member of the Armed Forces, National Guard, or Reserves may take this leave during a "qualified leave period" when the employee's spouse or domestic partner is on leave from a period of military conflict. "Qualified leave period" means the period during which the "qualified member" is on leave from deployment during a period of military conflict. An eligible employee shall be entitled to up to a maximum of ten (10) days of unpaid leave during a qualified leave period.

1. Definitions for Military Spouse/Domestic Partner Leave

- a. **Qualified member** means a person who is any of the following:

- 1) A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States, or
- 2) A member of the National Guard who has been deployed during a period of military conflict, or
- 3) A member of the Reserves who has been deployed during a period of military conflict.

- b. **Period of military conflict** means either of the following:

- 1) A period of war declared by the United States Congress, or

- 2) A period of deployment for which a member of a reserve component is ordered to activity duty, as defined in Military & Veterans Code section 395.10.

2. **Eligibility**

To be eligible, an employee must satisfy all of the following criteria:

- a. Be a spouse or domestic partner of a “qualified member”,
- b. Perform services for the University for an average of 20 or more hours per week,
- c. Provide the University with notice, within two business days of receiving official notice that the qualified member will be on leave from deployment, of the employee’s intention to take the leave, and
- d. Submit written documentation certifying that the qualified member will be on leave from deployment during the time that leave is being requested by the employee.

3. **Use of Accrued Paid Leave**

This leave is unpaid leave, except that an employee may elect to use accrued compensatory time off (in accordance with Article 12 – Hours of Work) or accrued vacation time prior to taking leave without pay.